OFFICIAL ASSIGNEE

v.

COLLECTOR OF LAND REVENUE

COURT OF APPEAL, SINGAPORE
WEE CHONG JIN CJ
T KULASEKARAM J
LAI KEW CHAI J
[CIVIL APPEAL NO. 11 OF 1982]
18 JANUARY 1984

LAND LAW: *Acquisition of land - Compulsory acquisition - Compensation by Collector of Land Revenue - Market value - Assessment to be based on existing use of the property and the purchase date - Land Acquisition Act, s. 33(1)(a), (5)(e).*

This is an appeal against the order of the Appeals Board (Land Acquisition) which confirmed the Award of the Collector of Land Revenue of $211,972 as compensation for the acquisition of the appellant's property.

The appellant bought the property in question on 22 July 1971 at $400,000. The property was used at all material times as a store for pepper. According to the current Town Map the property was indicated as "Land occupied by Her Majesty's Forces". But the said property was never occupied nor used by the British armed forces, which left Singapore in 1975 and ceased to occupy any land in Singapore.

In January 1975 the property was acquired compulsorily and was awarded compensation at $87,637.50, which was later increased to $211,972. Basing on the argument on behalf of the Collector of Land Revenue, the Appeals Board came to the conclusion that the property being designated as "Land occupied by Her Majesty's Forces" was virtually sterile land and affirmed the Award of the Collector of Land Revenue.

Held:

[1] The Appeals Board had erred in law in concluding that the ascertainment of the market value of the property should be made on the basis of its market price as a piece of land occupied by Her Majesty's Forces.

[2] The market value of the property should be assessed on its existing use as a store for pepper and the appellant's purchase, which took place sufficiently proximate to 30 November 1973. The Award should have been fixed at $400,000.

[*Appeal allowed with costs. Award increased to $400,000.]*

Legislation referred to:
Land Acquisition Act [Sing], s. 33(1)(a), (5)(e).

For the appellant - Lee Han Yang
For the respondent - P. Selvadurai

JUDGMENT

Lai Kew Chai J:

This is an appeal against the order of the Appeals Board (Land Acquisition) which confirmed the Award of the Collector of Land Revenue of $211,972 as compensation for the acquisition of the appellant's property.

The property was used at all material times as a store for pepper. It was a pre-war two-storey building constructed of corrugated asbestos roof on timber frame, brick walls and re-inforced concrete floor. Immediately behind the brick building stood a large single-storey open shed with zinc roof and wall structure. In August 1972 written planning permission was granted under the Planning Act for the retention of the additions and alterations to the existing building for use as a pepper store. The total floor areas of the building and the shed were approximately 1,015 sq. metres.

The land on which the building and shed were erected contained an area of 3,305 sq. metres. According to the Town Map of the 1965 Revised Master Plan, which was current, the property was indicated as "Land occupied by H.M. (Her Majesty's) Forces". Although this was the indication in the Town Map, the property was never occupied nor used by the British armed forces since 1939.

It is common ground that in 1975 the British armed forces left Singapore and ceased to occupy any land in Singapore.

On 22 July 1971 the appellant bought the property at $400,000. In January 1975 the property was acquired compulsorily. Although the original Award of the Collector of Land Revenue was made at only $87,637.50, it was later increased to $211,972. Despite the increase of the Award, the amount of compensation as affirmed by the Appeals Board is only slightly more than half the price paid by the Appellant who had bought the property on a "willing seller willing buyer" basis for use as a warehouse for pepper.

Before the Appeals Board it was successfully argued on behalf of the Collector of Land Revenue that under s. 33(1)(a) read with s. 33(5)(e) of the Land Acquisition Act, Cap. 272 (hereinafter referred to as "the Act"), the market value of the property shall be the price which a *bona fide* purchaser might reasonably be expected to pay for the property " in anticipation of the continued use of the land for the purpose designated in the Master Plan." On that basis, the Appeals Board came to the conclusion that the property being designated as "Land occupied by H.M. Forces" was virtually sterile land and affirmed the Award of the Collector of Land Revenue.

In our view the Appeals Board had erred in law in coming to the conclusion that the ascertainment of the market value of the property should be made on the basis of its market price as a piece of land occupied by Her Majesty's Forces. Since 1975 Her Majesty's Forces had ceased to occupy any land in Singapore. Accordingly, this alternative basis for evaluating the market value of such a property under s. 33(5)(e) of the Act was no longer available since its foundation in fact had totally disappeared since 1975.

In these circumstances, the market value of the property as at 30 November 1973 within the meaning of ss. 33(1)(a) and 33(5)(e) should be assessed on the basis of its existing use. The appellant was *bona fide* purchaser of the property in July 1971. He bought the property on the basis of its existing and lawful use as a store for pepper. Seeing that the appellant's purchase had taken place at a time sufficiently proximate to 30 November 1973 we are of the view that the Award should have been fixed at $400,000. The appeal is allowed with costs here and below. The Award is increased to $400,000.

Also found at [1984] 1 CLJ 131